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Attorneys for Defendant
Mervyn's LLC

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Great White Bear, LLC,

Plaintiff,

-against-

Mervyns, LLC,

Defendant.

06 Civ. 13358 (RMB)(FM)

NOTICE OF MOTION

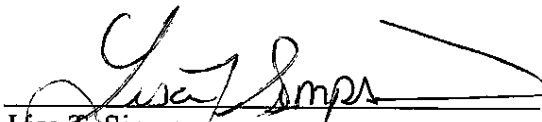
PLEASE TAKE NOTICE that, upon the attached Declaration of Lisa T.

Simpson, dated April 17, 2008, and the exhibits attached thereto, the accompanying Memorandum of Law, and all papers and documents filed with the Court in this action, Defendant Mervyn's LLC will move this United States District Court, before the Honorable Frank Maas, in the United States Courthouse located at 500 Pearl Street, New York, New York, for an order pursuant to Federal Rules of Civil Procedure 26(a)(2)(B), 37(b)(2), and 37(c)(1) striking Items 3, 4, 5, 6, 7, and 8 from the expert report of Stephen J. Rankel, submitted on April 10, 2008 by Plaintiff Great White Bear, LLC, precluding Plaintiff's reliance on Mr. Rankel's testimony with regard to those alleged Items of damages, and further requiring Plaintiff to pay any and all legal fees and costs incurred by Defendant associated with the preparation of this motion, the two applications made to the Court regarding Plaintiff's insufficient expert reports, dated February 21, 2008 and March 21, 2008, and the three letters, dated February 6, 2008,

February 19, 2008, and March 6, 2008, to Plaintiff's counsel regarding Plaintiff's insufficient expert reports, as well as any other relief that the Court deems proper.

Dated: New York, New York
April 17, 2008

ORRICK, HERRINGTON & SUTCLIFFE LLP

By 
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